The Polynesian: PUBLISHED WEEKLY AT HONOLULU.

Hawaiian Islands.

Abraham Fornander, Editor.

Business Cards.

WM. A. ALDRICH.

BISHOP & CO., BANKERS, Office in the East corner of ' Makee's Block,' on

Kanhamann street, Honolulu, Draw Bills of Exchange on Messrs. Grinnell, Minturn & Co., New York; Henry A. Peirce, Esq., Boston; and Messrs. Morgan, Stone & Co., San Francisco. Will receive deposits, Discount first class business paper, Attend to collecting, &c. &c. &c.

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Importers and Commission Merchants-Dealers in General Merchandise, and Agents for the Sale of Island Produce. -ALSO-

Agents for the Libne, Metcalf, and Princeville Plantations. CHAS. II. LUNT, SHERMAN PECK,

C. BREWER & CO. Commission and Shipping Merchants., Honolulu, Oahu, H. 1.

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C. BREWER 2d, General Merchant and Agent for the sale of the products of the

A. S. CLEGHORN,

Dealer in General Merchandise, Fire-Proof Store corner Kaahu manu and Queen Streets, opposite Makee's Block.

Also, Retail establishment on Nuuanu Street, above King.

Island Produce bought and sold. Island orders carefully

A. S. GRINBAUM & Co., Importers, and Wholesale and Retail Dealers in FASHIONABLE CLOTHING, HATS, CAPS, BOOTS and SHOES!

And every variety of Gentlemen's superior Furnishing Goods.

Store in Makee's Block, formerly occupied by W. A. Aldrich, Esq., fronting on Queen street, Honolulu, Oahu.

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Importer of China and other Goods; dealer in Sugars, Molasses, Coffee, Rice, Fungus, &c. On King street, next door to Mesers. Castle & Cook.

JOHN RITSON, DEALER IN WINES, SPIRITS, ALE & PORTER, Honolulu.

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GODFREY RHODES, WHOLESALE DEALER IN WINES and SPIRITS, ALE and PORTER Near the Post-Office, Honolula.

SAM'L H. DOWSETT,

LUMBER MERCHANT, Hides,

Will fernish Building Material of every description, at lov prices.
Orders from other Islands solicited. Yard on corner

C. H. LEWERS, Lumber and Building Materials, Fort st., Honolulu. 14-tf D. N. FLITNER,

CONTINUES his old business at the new store on Kashumanu street. neters Rated by observations of the sun and stars with a transit instrument accurately adjusted to the meridian of Honolulu. Particular attention given to fine watch repairing. Sextant and Quadrant glasses silvered and adjusted. Charts and Nautical instruments constantly on hand and for

R. E. WAKEMAN. Contractor of Building and Jobbing ALSO -- Wheelright, Carriage Making and Repairing.--King street, Honolulu, opposite the City Market.

THOS. G. THRUM Stencil Cutter, Copyist and Ornimental Foil Letterer. 2 Fort street, opposite the Odd Fellows Hall.

GEORGE W. BROWN,

Notary Public. 02 BY OFFICE-COURT HOUSE, UP STAIRS. OF tf

Business Cards.

H. W. SEVERANCE, AUCTIONEER.

AND COMMISSION MERCHANT Fire-Proof Store, Robinson's Building, QUEEN STREET, HONOLULU. Will continue business at the new stand.

BYRON'S BAY, HILO, H. I. Will keep constantly on hand, an extensive assortment of every description of goods required by Ships and others. The highest price paid for Island Produce. Money advanced for Bills of Exchange at reasonable

CALIFORNIA LLOYDS.

MARINE INSURANCES.

OFFICE, Southwest corner of Washington and THE UNDERSIGNED ARE PREPARED TO

1 issue "Marine Insurance Policies," each being responsible for the sum written on the Policies against his own name only, and for himself and not for others or any of them. JOHN PARROTT, GRORGE C. JOHNSON, JAMES DONARUE, WILLIAM E. BARRON, N. LENING, JAMES PHELAN, JAMES OTIS, JAMES B. HAGGIN, LAPAYETTE MAYNARD. J. Mona Moss.

ALDRICH, WALKER & CO., Agents, Honolulu, H. I.

H. McINTYRE & SON, BAKERS AND GROCERS. East corner of King and Fort Streets. 38

GEORGE CLARK, BOOT AND SHOE MANUFACTURER Hotel Street, between Nunanu and Mauna Kea Sts.

Chas. F. Guillou, M. D., LATE SURGEON UNITED STATES NAVY Late Consular Physician to American Scamen, AND GENERAL PRACTITIONER.

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B. F. EHLERS, DEALER IN DRY GOODS, SILKS, &c. PORT STREET, HONOLULU.

J. O'NEILL, Painter, Paper-Hanger, &c.

Opposite Lewis & Norton's Cooperage, King st. 50 ALLEN & BERRILL. SUCCESSORS TO

GEORGE W. MACY, Kawaihae, Hawaii. nue the General Merchandise and Shipping busi ness at the above port, where they are prepared to furnish the justly celebrated Kawaihae Potatoes, and such recruits as are required by Whale Ships, at the shortes

notice and on the most reasonable terms. J. WORTH, **AUCTION & COMMISSION MERCHANT** GENERAL MERCHANDISE.

Ships supplied with Recruits and money advanced on Bills of Exchange. HILO, Hawaii.

CALIFORNIA MUTUAL MARINE INSURANCE COMPANY, SAN FRANCISCO.

THE UNDERSIGNED having been appointed ents for the above Company, beg that they are now prepared to issue

MARINE INSURANCE POLICIES On cargo, freight and treasure to all parts of the world. H. HACKFELD & CO. Honolulu, Aug. 21, 1861. 17-tf

Merchant's Exchange

THE PROPRIETOR OF THE MER-

MARBLE BOWLING ALLEYS!

Mr. W. B. CARROLL, will have charge of the Alleys, and all those wishing to engage in this health-giving game are invited to give him a call, the Proprietor pledging himself that nothing shall be wanting on his part to render his Alleys the most agreeable place of resort for recreation and awasement in Honolulu.

NOTICE.

WHEREAS THE UNDERSIGNED HAS BEEN INFORMED on good authority that great irregularity exists in the taking gilling of the wild cattle on the mountains on Hawaii, beand killing of the wild cattle on the mountains on Hawaii, belonging to His Majesty and to the Government, by parties who claim or pretend to claim right under bills of sale from His Majesty or from the Government, and whereas, from the nature of the country and other causes it is almost impossible to place agents to guard the interests of His Majesty and of the Government, and whereas all parties having legal claims on the said wild cattle have already had time sufficient, if they have used the diligence to remove the same:

Now therefore, the undersigned hereby gives notice to all parties who purchased wild cattle running on the mountains on Hawaii, previous to the 1st day of January 1857, to remove the same if not already removed, on or before the 1st day of May next. after which time, parties taking wild cattle will be prosecuted

after which time, parties taking wild cattle will be Interior Office, \(\) L. KAME Jan. 24, 1858.

Goat Skins, Tallow

Old Copper and Composition, DURCHASED AT THE HIGHEST MARKET C. BREWER & CO.

L. KAMEHAMEHA.

and

GOAT SKINS, DURCHASED AT THE HIGHEST MARKET

ALDRICH, WALKER & CO. prices, by

Honolulu Water Works.

NOTICE.—All Persons having Water Privileges are hereby notified that their Rates for the half year ending July 1, 1863, will be due and payable in advance at this office, on the first day of January next, 1883, and if not paid before the tenth day of that month, their water will be hable to be atopped off without further notice.

1. Water Office foot of Numanu Street.

HENRY PRENDERGAST,

Honolulu, Dec. 18, 1862. (34 tf) Sup. Hon. Water Works.

LAW REPORTS! POR SALE AT THIS OFFICE, THE FIRST VOLUME of the Hawaiian Reports, comprising many of the most important Decisions and Rulings of the Superior Courts of this Kingdom during the ten years ending with 1856, compiled by GEORGE M. ROBERTSON. Price five dollars, bound in calt

Foreign Advertisements.

CHAS. WOLCOTT BROOKS, W. FRANK LADD, EDWARD F HALL, JR CHAS. W. BROOKS & Co., Shipping and

123 SANSOME St..

SAN FRANCISCO, CAL. Particular attention given to the purchase, shipment and sale of Merchandise, to forwarding and transhipment of goods, the chartering and sale of vessels, the supply-ing of whaleships,

and the negotiation of Exchange ET EXCHANGE ON HONOLULU in sums to suit. ADVANCES MADE ON CONSIGNMENTS.

-REFER TO-T. SPENCER, Hillo.

James Hunnewell, Boston HENRY A. PRIBCE,

J. C. MERRILL

...Labaina.

MCRUER & MERRILL,

AUCTIONEERS! AGENTS OF THE

REGULAR DISPATCH LINE HONOLULU PACKETS

Particular attention paid to forwarding and transhipment of merchandise, sale of whalemen's bills, and other exchange, insurance of merchandise and specie under open policies, supply ing whaleships, chartering ships, etc.

117 and 119 California-street, SAN FRANCISCO Cal. Messrs. D. C. WATERMAN & Co., Honolulu C, Brewer & Co.,.... Capt. B. F. Snow. . P. EVERETT, Esq.,

RICE & Co.. Shipping and Commission Merchants,

DEALERS IN

Messis, Gilman & Co.,

SHIP CHANDLERIES, &c., HAKODADI, JAPAN, WILL ATTEND TO THE sales of Merchan-I dise, as also to the purchase and shipment of all kinds of ods exported from that country. Mr. RICE is the Commer cial Agent for the United States at that port, and having already resided there for about five years, is enabled by his acquaintance with the country, to offer many advantages in the discharge of any business that may be entrusted to their House.

..... REFER TO WM. T. COLEMAN & Co., JOHN H. ALDRICH, Esq., . HOWLAND, JR., & Co CHARLES SCUDDER & CO ... Augusta, Me. San Francisco, Cal. McCondry & Co., S. C. Wolcott Brooks & Co., S. C.

MESSRS. C. A. FLETCHER & CO. COMMISSION MERCHANTS

AND GENERAL AGENTS HARODADI, JAPAN,

EG TO INFORM OWNERS AND MASTERS OF SHIPS about to visit the port of Hakodadi, that they are prepared take Consignments and do business on the usual terms. gements with Home Insurance Offices, Messrs By arrangements with Home Insurance Offices, Messrs. FLETCHER & CO. can take risks on Oil, or other shipments of Hakodadi, Yesso, Japan, 4th July, 1859.

CHARLES BREWER, COMMISSION MERCHANT, Boston, U. S. Referto R. W. Wood and C. BREWER 2D.

WM. FAULKNER & SON, 131 SANSOME ST., SAN FRANCISCO, GENT FOR JAMES CONNER & SONS, U. S. A Type Foundry, and Dealers in all kinds of Printing Materials.

Printers will find it to their advantage to call on us be-

GOODS:

Bark "Richmond!"

THE UNDERSIGNED WOLLD OFFER for sale the cargo of the bark "Richmond," from New Bedford, con sisting in part of-

Cut Spikes, all sizes, 31-gall, barrel Shooks, 14-gall Sugar Shooks, Hoop iron for barrel and keg Shooks, 5 bales heavy English Burlaps, 44 inch, Oak and locust Treenails,

Hemp Twine, Wedges, 1 Lumber Wagon, suitable for country use, New Smoking and Chewing Tobacco, ass'd brands, Small Manila Cordage, 1 in., 11/2 in., 11/2 in., 11/4 in., Burden Blocks. French Yellow, Lampbiack, Bris. Pork, Cases Davis & Son's Pain Killer,

Also On Hand! Ex Comet & Yankee

FROM SAN FRANCISCO! A superior lot of California Brooms, Nos. 1, 2, 3, Cases White Zinc, in 25-lb tins, California Potatoes, California Sugar and Syrup Shooks,

Brls. Vinegar, S-hooped Paffs, A superior lot of Cranberries, in kegs, Gunny Bags, de., &c. WILCOX, RICHARDS & CO., Fire-proof Store, Queen Street.

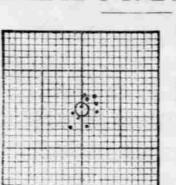
Per "Young Hector."

Champagne Cider! FEW CASES OF THIS DELICIOUS BEY-

Young Hector."
A very superior article. For sale by
C. BREWER & CO. Co-Partnership Notice! MR. FREDERICK BANNING HAS THIS day been admitted as a Partner in our business.
En. HOFFSCHLAEGER & STAPENHORST. Honelulu, January 1, 1863.

foreign Advertisements.

AMMUNITION.



HONOLULU, MARCH 28, 1863

TARGET 12 FEET SQUARE.

Represents average shooting at 500 yards, ELEY'S ENFIELD

Eley's Ammunition OF EVERY DESCRIPTION For Sporting or Military Purposes.

DOUBLE Waterproof Central Fire Caps ridges for killing game, &c., at long distances, Breech Loading Cartridge Cases of superior quality for Shot Guns and Rifles. Contractors to the War Department for Small Arms

Jacob's Rifle Shell Tubes, Cartridges and Caps for Colt's, Adams', and other Revolvers Enfield's Ammunition, and Ball Cartridges for Whitworth and Henry's Rifles, also for Westley Richard's Terry's, Wilson's, Prince's and other Breech Loaders. Bullets of uniform weight made by compression from Soft Refined Lead

E' VY BROS., Gray's-Inn-Road, London, W. C. WHOLESALE ONLY. SAUCE---LEA & PERRINS

WORCESTERSHIRE SAUCE EXTRACT of a Letter from Medical Gentleman at Medras, to his Brother Worcester, May, 1851: CONNOISSEURS "Tell Lea & Perrins

ONLY GOOD SAUCE AND APPLICABLE TO Every Variety of

DISH.

steemed in India, and is,

in my opinion, the most

palateable as well as the

nost wholesome Sauce

LEA & PERRINS Beg to caution the public against spurious imitations of their

WORCESTERSHIRE SAUCE Markets have been supplied with SPURIOUS IMITATIONS, the labels closely resembling those of the genuine Sauce, and in one or more instances the names of L. & P. forged. L & P. will proceed against any one who may manufacture or vend such imitations, and have instructed their correspon-

dents in the various parts of the world, to advise them of any infringement of their rights. ASK FOR LEA & PERRINS'S SAUCE. ** Sold Wholesale and for Export, by the Proprietors, Wor-cester; Messrs. CROSSE & BLACKWELL; Messrs. Barelay and Sons, London; &c., &c.; and by Grocers and Oilmen uni

HONOLULU STEAM, BISCUIT BAKERY!



THE UNDERSIGNED WOULD RESPECTnform his friends and the public generally that u Steam Biscuit Bakery being now in full operation, e is prepared to furnish Pilot and Navy Bread, Water Crackers

FANCY BISCUITS! All of superior quality and at Parties furnishing their own flour for ship bread will have it made up at the lowest possible rates.

SHIP BREAD REBAKED! Orders from the other islands promptly attended to ROBERT LOVE Orders in Honolulu for shipping to be left with Messrs-Wilcox, Richards & Co., Queen St. 11-tf

COOPER & GUAGER!

IN REMOVING HIS BUSINESS TO his new cooperage on the esplanade, Fort Street, takes this opportunity of returning his sincere thanks to his friends and the public in general, for the support and patronage which they have been pleased to grant to him for the past ten years, and hopes that by attention to business and promptness in the execution of all orders intrusted to him, to merit a continuance of their favors.

SPECIAL NOTICE!

ic, that, in con after carry on the Wheelwright

THE UNDERSIGNED

Royal Hawaiian Theatre.

C. L. LEWERS.

BUSINESS! In all its various branches, and quests a share of public patronage.

All work guaranteed. Prices to suit the times.

WM. DUNCA equests a share of public patronage

PIANOS TUNED! Instructions on the Piano Forte!

PIANOS TUNED & REPAIRED! GUITARS, and all other Stringed Instruments. CHAS. DERBY.

Rice Growers! THE UNDERSIGNED will pay CASH (from this

Natives or foreigners on the other islands by shipping Paddy to our consignment, may receive account sales with cash or order for the amount of their shipment at the highest market rates. January 16, 1863.—38tf H. W. SEVERANCE,

English Scythe Hooks. JUST Received ex & Galllel" a few Patent Scythe Hooks, the best article for cutting rice ever yet imported, at A. S. CLEGHCRN,

JUST RECEIVED

and firm name of LEWERS & DICKSON.

Honolulu, March 1, 1863.

The Polynesian.

SUPREME COURT----January Term, 1863.

JOSEPH BOOTH. In Banco.—On appeal, from the Po-Judgment of the full Court. Robertson, Justice: The detendant is charged with having violated Section 1st, Chapter 42d of the Penal Code, and pleads not guitty. He admits that on the 29th October, 1862, he sold imported spirituus liquors to Natives of this Kingdom, in the town of Hono-

It is admitted on the part of the Crown that defendant is a British subject, licensed to sell liquors under the Act of 23d August, 1862, and that he is an importer of spirituous liquors.

The appeal to this court from the decision of the court below, has been taken purely upon points of law, which have been submitted by defendant's counsel with much labor and care, in a printed brief of great length, accompanied and enforced by oral argument. forced by oral argument.

Upon examination, I think the numerous points made by the

defence, may be comprised in a few general grounds which will embrace the whole subject. In giving my opinion upon the case, therefore, I do not propose to take up the points of defendant's brief seriatim, but to advert, in what seems to be the most natural and convenient order, to the general grounds which seem to me to comprise the whole defence. And first, it is argued that section 1st, chapter 42d of the Penal Code, under which the defendant is charged, has been repealed, by implication, through the enactment of subsequent statutes. I shall not now take notice of the argument that the part of the Penal Code referred to was repealed by the 103d Article of the Constitution, because that point seems to be comprised in the general ground of unconstitutionality, relied upon by defendant. But it is contended that section 1st, chap-ter 42d of the Penal Code, which prohibits the saie of spirituous liquors, by any person, to a native of the Kingdom, is radically inconsistent with the provisions of the Act of the 23d August, 1862, regulating the sale of spirituous liquors, and un-der which the defendant obtained his license. It is argued that the later enactment embraces fully the subject matter of the former, which has thereby become superseded

Against this proposition the Attorney General cites the case of Rex cs. Elia, decided at the July term, 1861. In that case the defendant was indicted before the Circuit Court at Kauai, for having sold spirituous liquors without license, in contra vention of the law of 1846, which regulated the sale of spirit yous liquors, previous to the enactment of the statute of 1862. The prosecution proved that the defendant, who was not liensed, had sold spirituous liquors to natives, and his counsel to court to di-miss the case, on the ground that defendant could only be prosecuted under section 1st, chapter 42d of the Penal Code. The Circuit Court overruled the motion, and on appeal to this court, the judgment of the lower court was affirmed, on the ground that both statutes were in force, and the District Attorney might elect to prosecute the defendant under either the one or the other. In my opinion, the decision of the court in Rex es. Elia was sound, for the reasons stated at the time, and as the statute of 1802 has merely taken the place of that of 1844, as a law to regulate the vending of spirituous liquors, as a branch of internal commerce, the provisions of that statute do not amount to an implied repeal of saction 1st, chapter 42d of the Penal Code, which is a special penal enactment for the suppression of drunkenness among the natives. How can the statute of 1862 be said to embrace the subject matter of section 1, chapter 42 of the Penal Code, when that statute, as the defendant contends, contains no pro-vision whatever touching the selling of liquors to natives? The later statute could only have embraced the matter of the former either by expressly repealing, modifying, or re-enact-ing the penal provision. The penal law is left untouched; for the mere silence of the statute of 1862 on the subject matter of the penal law, cannot affect that law. The penal statute being still in force, I presume the Legislature deemed it unnecessary to repent, in the Revenue Law of 1862, the general prohibition against the sale of liquors to natives; but the sub-ject is gnarded with great care, by requiring the insertion in the vendor's bond of a condition, subjecting him to its penalty in case he violates *any law* of the Kingdom. As both statutes are alive and in full force, the vendor, by subjecting himself to the particular liability of his class, under the Revenue Law, does not become released from the ordingry liability which presses upon all men, under the provisions of the penal law so that in case of his infraction of that law, he may, at the op

tion of the Government, be prosecuted either criminally, un-der the Penal Code, or upon his bond, under the Revenue Law.

The defendant argues further, that, under the law of 1862, licenses to sell spirituous liquors may be granted to natives, and that as a native vendor would be prevented, by section 1, and that as a native vendor would be prevented. chapter 42 of the Penal Code, from purchasing liquors to sell again, the provision of the Penal Code is radically inconsistent with the law of 1862, and the former law must therefore be regarded as repealed by implication. But the passage of the Statute of 186? has made no change in the law touching this subject. What is now set up as a radical inconsistency between the Penal Code and the Act of 1862, equally existed in the provisions of the License law of 1846, which while it did not prohibit the granting of licenses to native subjects, did exressly forbid all vendors from selling to natives. The Statute f 1851 is the same; and the law of 1862, while it does not prohibit the granting of licenses to natives, does prohibit ven-dors from selling to natives, by binding them not to violate any law of the land in the exercise of their trade. The argument, then, amounts to this, that the provisions of the license laws are in themselves radically inconsistent, and that there ore the prohibition against selling to natives is void. this is not sound. The circumstance that, under the law as it stands, a native vendor would labor under the disadvantage or inconvenience of having to import his liquors, is accidental or at least but an indirect consequence of the law. I see no inconsistency in the provisions of the law which, while it grants the privilege of vending liquors to any one who fulfills certain requirements, and binds himself to comply with certain conditions, prohibits, as one of those conditions, the selling of liquors to native subjects. The point involved in this argument is merely a branch of the larger argument against the constitutionality of the statutory prohibition; for unless ie Legislature has exceeded its power in enacting that prohi-tion, any indirect disadvantage that may arise thence to individuals, amounts to nothing. Again the license laws, which regulate any particular branch of internal traffic, must be newed as in subordination to a general law of the land. The neral law, contained in the Penal Code, says that no person whatever shall sell spirituous liquors to a native subject; and unless the license law, which is a particular law, contains a provision amounting to an express declaration that vendors may sell to native subjects, the two laws cannot be deemed radically inconsistent. If such a provision existed, the particular law would prevail over the general; but the permission to sell liquors to natives cannot now, in the face of a positive

follows: "Whoever shall sell, give, purchase, or procure for, and in behalf of any native of this Kingdom, or for his use, any spirituous liquor, or other intexicating drink or substance shall be punished by a fine not exceeding two hundred dol lars; and in default of the payment of such fine, by imprisor ment at hard labor for a term not exceeding two years." It argued, that because the preposition to is not used after the verbs sell and gice, that those verbs must be connected with the preposition for, and the statute read so as to prohibit only the selling, giving, purchasing or procuring for a native, but not the selling or giving to him. This is certainly a strained and hypercritical reading of the language of the statute. The meaning of that language, when read and construed in the ordinary manner, is so obvious that I am surprised at the amount of labor and ingenuity expended by counsel in the endeavor to build up a construction which, upon examination will be found to destroy itself, by rendering the law almost nu gatory in practice; and no court will adopt such a construction when the language of the statute is plainly susceptible of one that will give effect to the avowed purpose of the law makers, and the declared object of the law. Did the words used by the Legislature, when construed according to their natural sense and the connection in which they stand, result in an absurdity, and fail to effect the declared object of the law, it would not be within the province of the court, by supplying words which the Legislature had not used, to obviate that abwards which the Legislature had not used, to obviate that ab-surdity and effectuate the supposed intention of the law mak-ers. They must use language themselves susceptible of such a construction as will express their intention, or that intention cannot be enforced. But where the Legislature has used langrage which is susceptible of two reasonable constructions one of which would defeat the declared object of the law while the other would effectuate that object, it is the duty of the courts to adopt the latter, for that must be presumed to convey the intention of the Legislature. I do not admit that the construction contended for on behalf of the defendant in this case, is reasonable or practicable, but merely to state what would be an obligatory rule upon the Court, even supposing the defendant to stand in so good a case. Again, admitting that the wording of the law might have been improved, or its meaning placed beyond the possibility of a doubt, by the use of the preposition to, that circumstance cannot be pressed beyond its legitmata weight. In the case of Bloxam 2s. Elsee, 6 Barnwell & Cresswell, 174, the court said: "The sense and spirit of an Act, however—its scope and intention, are primarily to be regarded in the construction, and it matters not that the terms used by the Legislature in delivering its commands, are not the most opt to express its meaning; provided the object be plain and intelligible, and expressed with sufficient distinctness to enable the Judge to collect it from any part of the Act. The object once understood, Judges are so to construct the Act as to suppress the mischief and advance the remedy." In the case of Rex vs. Ramsgate, 6 Barnwell & Cresswell, 712, the court held the following language: "When date) the highest market rate for good Paddy, delivered at his Auction Sales Room, Queen street, and will return the date would be very dangerous to put upon them a construction it would be very dangerous to put upon them. which would amount to holding t mean what it has expressed."

The language of the statute before us is not ambiguous. The words used by the Legislature, taken in their usual signification and proper connection, express a clear and unmistakable meaning, thus: "Whoever shall sell any native of this Kingtion and proper connection, express a clear and unnistakable meaning, thus: "Whoever shall sell any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall give any native of this Kingdom, or for his use, any spirituous liquor, &c., whoever shall perhaps or necessity for the use of the proposition to in order to make it was any native of the Legislature to prohibit all persons from selling or giving spirituous liquor. To conclude upon this use, and from purchasing or procuring for and in behalf of any native, or for his use, spirituous liquor. To conclude upon this point, let us look at the reading contended for by the defence; "Whoever shall purchase or procure for and in behalf of any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for and in behalf of any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for and in behalf of any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for and in behalf of any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for and in behalf of any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for and in behalf of any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for and in behalf of any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for and in behalf of any native of this Kingdom or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for and in behalf of any native of this Kingdom or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for and in health of the constitution of the provisions of the true meaning and intention of the provisions of the true meaning and intention of the provisions of spirituous liquor, &c.; whoever shall or the A ND FOR SALE BY THE UNDERSIGNED,
A Dr. S. P. Townsend's Compound Fluid Extract of Sarsapafila [38 tf] JANION GREEN & CO.

Co-Partnership Notice!

MR. J. G. DICKSON HAS THIS DAY BEEN
Madmitted as a partner in my business, under the style
is the point, let us look at the reading contended for by the defence; "Whoever shall sell for any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for and in healt of any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for and in healt of any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for and in healt of any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall give for any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall give for any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for and in healt of any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for any native of this Kingdom, or for his use, any spirituous liquor, &c.; whoever shall purchase or procure for any native of this Kingdom

ter version, in this case, for the purpose of a parallel reading, the court, in case of an irreconculable difference, would have to follow that version as the standard. (See Metcalf 18. Kahai, I Hawaiian Rep., 225; Hardy cs. Ruggles, et als. Ibid,

It is argued further, by defendant, that section 1, chapter 42 of the Penal Code is unjust and unreasonable in its consequences, and therefore void. I am unable to see the force of this point as stated, for the consequences of that section are these, that if any person violates its provisions, whether he be a licensed vendor or not, he subjects himself to a fine of not more than \$200, or imprisonment for not longer than two years. If it is meant to be argued that it would be unjust and unreasonable to exact from any vendor who may violate the law the penalty prescribed by the Penal Code, in addition to the penalty of his bond and the forfeiture of his license, under the license law, that is a matter with which the rourt has nothing to do, even admitting that the several penalties could be legally exacted, upon which I do not venture any opinion. If counsel mean to say that the provisions of the Penal Code and of the license law, taken tegether, make an unjust and unreasonable law, because those provisions prescribe a much heavier and more severe punishment against any licensed venheavier and more severe punishment against any licensed vendor who may sell spirituous liquors to natives, than against an
unlicensed person who may commit the same offense, I must
say that I do not perceive anything unjust or unreasonable in
such a law. It is obvious that licensed vendors possess in a
hundred fold over unlicensed persons, the facilities for a systematic violation of the prohibition, and that their temptations
to do so are correspondingly great. It was reasonable therefore, on the part of the Legislature, to adjust the penalties accordingly. It is the duty of the Legislature to affix such an
amount of punishment to the commission of an offense, as will
tend to deter men from such commission, and not to ascertain
the maximum which offenders can ufford to pay, and still go
on violating the law. It is not for the court to say, in any case,
that the penalty is excessive and unreasonable, and that therethat the penalty is excessive and unreasonable, and that there fore the last is void. Take, for example, the offense of smuggling. For a single act of smuggling, however small the amount, a valuable ship may become furfeited to the Government; but an argument in that case, that the punishment was

unreasonable, and therefore the court should hold the law to be void, would deserve no attention. The next ground of defence to which I shall advert is, that the law prohibiting the sale of spirituous liquors to natives is in conflict with the provisions of Articles 2d and 10th of the Treaty with France. By the 10th Article of that Treaty, it was stipulated on the part of the Hawaiian Government, "that the importation and the sale of wines and brandies of French origin shall not be prohibited in the Hawaiian Islands." Article 2d, the principal and of which is to regulate the commercial and maritime intercourse of the respective subjects of the two Governments, contains, among other provisions, the following: "They shall have the right to buy and to sell of and to whom they picase, without any monopoly, contract or exclusive privilege of sale or purchase, prejudicing or restricting in any manner, whatever their liberty in this recover. They shall be ner whatever their liberty in this respect. They shall be equally free, in all their purchases as well as in all their sales, to fix the price of their goods, merchandise and objects of every kind, both imported and destined for importation, so long as they comply with the laws and regulations of the country."

Whatever privilege may be rightfully claimed by a French subject, under those provisions, may equally be claimed by the defendant by virtue of the party claimed in the Treaty with defendant, by virtue of the parity clause in the Treaty with Great Britain. It is contended that the freedom of importation which is guaranteed by the Treaty carries with it, as a natural result, freedom of sale; that as the importation cannot be prohibited by law, neither can the sale be prohibited, or even restricted in any degree; that the words, "They shall have the right to buy and to sell of and to whom they please," must be taken without any qualification whatever, and extend the right of sale, which follows the right of importation, beyoud the power of the slightest limitation or restriction, by municipal law; and that, therefore, the law which prohibits the sale of spirituous liquors to natives is in direct violation o the Treaty.

The language of the Treaty is undeniably broad, and the ords quated, if taken by themselves, might be understood as sustaining the defendant's position; but I understand the general scope and intent of the second Article, the whole of which should be read together, to be principally the securing for French subjects, residing in, or visiting this Kingdom, for purposes of trade or commerce, an equality of rights and privileges, in regard to such trade or commerce, with His Majesty's own subjects. That the Hawaiian Government has never understood the trenty stipulations referred to in the light now urged upon the court by the defendant, is evident. The prohibitory law which is now sought to be overthrown, was in force for many years before the date of the French Treaty, and if the provisions of that Treaty had been understood by this Majesty's Government as conflicting with so important a law, an immediate change must have followed. Yet three successive sessions of the Legislature have been held since that date, and the Legislative Body has not been called upon by the Excutive to repeal the law in question, in order to give effect to the Treaty. It is said that the court has nothing to do with governmental policy. But this is not true to the extent which is claimed, for the court is supposed to know, and bound to take notice of, the general policy of its own Government. The judicial recognition of that policy becomes necessary in many cases, as throwing light upon the meaning of statutes and treaties. In this case, it is clear that if the Hawaiian Government had ratified the provisions of the Treaty, understand-ing them to mean what is now contended, a line of policy pursued ever since the recognition of Hawaiian Independence, must suddenly have been abandoned. But neither were those provisions so understood by the late Commissioner of France, who negotiated the Treaty on behalf of his Sovereign. It appears, by reference to the Treaty and Protocols, as printed by pears, by reference to the Treaty and Protocols, as printed by order of the King in Council (see page 76), that a suggestion having been made, in Privy Council, that the Treaty "provided for the sale of intoxicating liquors to the King's native subjects, contrary to the Hawaiian municipal laws," the Commissioner solved that doubt, officially, as follows: "That it had never entered into the intention of France to interfere in the system of the Hawaiian laws which regulate the sale of liquors to the natives; it is not the intention of France now. The object of the l'th Article is to protect foreigners, especially the French, against all systematic and absolute prohibition, and at the same time leaving to the Hawaiian Government every liberty in the internal regulation of that special commerce." So, then, it appears that the existing municipal laws are in conformity with His Mojesty's Treaty engagements, as mutually understood by the two Governments; and this part of the defence must therefore fall to the ground.

The most important ground taken by counsel for the defendant, is the one which yet remains to be considered, namely, that the prohibitory law is in conflict with certain articles of the Constitution, and therefore void. The articles relied upon are the 1st, 14th and 62d, which read as follows: Article 1st. God buth created all men free and equal, and endowed them with certain inalienable rights, among which are life and liberty, the right of acquiring, possessing and protecting property, and of pursuing and obtaining safety and

Article 14th. The King conducts his Government for the common good; for the protection, safety, prosperity and hap-nness of his people, and not for the profit, honor, or private nterest of any one man, family, or class of men among his rohibition, be given by, or derived from, negative implicasubjects. Therefore, in making laws for the nation, regard shall be had to the protection, interests and welfare not only of the King, the Chiefs and Rulers, but of all the people airce. But the Defendant contends that section 1, chapter 42d of he Penal Code is inconsistent, illogical, contradictory and aburd upon its face, and therefore void. That section reads as Article 62d. Full power and authority are hereby given to said Legislature, from time to time, to make all manner of wholesome laws, either with penalties or without, as they shall judge to be for the welfare of the nation, and for the necessary support and defense of good government: Provided the same be not repugnant or contrary to this Constitution. It is argued that section 1, chapter 42 of the Penal Code grants privileges and immunities to one class of citizens which it denies to others, under like circumstances. But this is an incorrect way of putting the case. The law referred to grants no privileges or immunities to any class. On the confrary, it is a prolubitory law, forbidding all men alike from selling or furnishing spirituous liquors to native subjects. The true mode of stating this point of the defence, it seems to me, is this: the object and effect of the prohibitory law being to prevent the sale of liquors to native subjects only, and not to all subjects alike, it is at variance with the spirit of the Constitution. This point, therefore, although stated separately by counsel, is comprised in the general ground, and will be cov-

In the case of Rex vs. Sawyer, tried before this court at the

ered as I proceed.

July term, 1859, the defendant was prosecuted under the stat-ute prohibiting the manufacture of intoxicating liquors. One ound of defence relied upon in that case was, that the probitory law is repugnant to the 1st article of the Constitution, and therefore void. The court overmied that part of the defence; and I took occasion at that time to express my opinion, that the 1st article of the Constitution is to be regarded merely as a preface, announcing and recognizing, in general terms, political principles, touching the freedom, equality and common rights, which lie at the foundation of every liberal, constitutional government, and upon which the Hawarian Constitution is professedly based; but that, in the application of those principles, the language in which they are declared is not to be understood in an absolute and unlimited sense. That language must be interpreted, and the application of those principles must be controlled and regulated, by the succeeding provisions of the Constitution—by the expressed or clearly implied requirements, authorizations and limitations of the instrument, regarded as a whole. The bare recognition of those strument, regarded as a whole. The bare recognition of those principles is by itself of no practical value without their authoritative application, for, as remarked in the defendant's brief: "The ideas of natural, civil and equal rights are rebrief: "The ideas of natural, civil and equal rights are regulated by no fixed standard, and the ablest and purest men have differed upon the subject;" and, in my opinion, the general principles may receive a wider interpretation and a more extended application, from one nation than from another, and yet both one and the other may with equal propriety be said to enjoy political and civil freedom, although in an unequal measure. Those principles were not recognized aere for the first time in the Constitution adopted in 1852. They had previously been announced in the declaration of rights prefixed to the Constitution of 1840. They were not embodied in the Constitution, but formed a part of the preface, and were properly styled sentiments, or principles, in general accordance erly styled sentiments, or principles, in general accordance with which the Government was to be conducted. It is unnecessary prove, at length, that those sentiments or principles have never been interpreted or deemed able in thi Kingdom, in the unlimited sense contended for in the present case, and in the case of Rex cs. Sawyer.

But it is argued that the enactment of the law now under discussion is what is sometimes denominated class legislation; and that the power of class legislation, or making special laws,